

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of The:

Commissioner's Own Motion for the Alteration of the Crossing or, in the Alternative, the Imposition of a Restriction on the Permitted Use of that Grade-Separated Public Crossing of the Tracks of the Wisconsin Central Ltd. by Davenport Street in the City of Rhinelander, Oneida County

9164-RX-639

FINAL DECISION

The Commissioner of Railroads, Rodney W. Kreunen, has directed the staff of the Office of the Commissioner of Railroads (OCR) to investigate and conduct a hearing regarding the potential alteration of the crossing or, in the alternative, the imposition of a restriction on the permitted use of that public crossing of the Wisconsin Central Ltd. (hereinafter referred to as WCL) tracks with Davenport Street in the City of Rhinelander, Oneida County (crossing no. 694-001X).

In accordance with notice duly given, hearing on the matter was held at Rhinelander, Wisconsin on June 2, 2006 with hearing examiner David J. Meier presiding. The City of Rhinelander appeared by Mayor Richard Johns, and Wisconsin Central Ltd. appeared by Attorney Thomas Healy.

On June 15, 2006, the hearing examiner issued a proposed decision. The OCR received no comments. The Commissioner adopts the proposed decision as final without change.

Findings of Fact

THE COMMISSIONER FINDS:

The structure carrying rail traffic over Davenport Street provides 12 feet of elevation over the roadway for the passage of vehicles. This clearance is insufficient to allow all vehicles to pass. There are warning signs of the 12 foot clearance both on the approaches as well as on both sides of the structure. These signs, while meeting current standards, appear to provide only inadequate warning to the traveling public as to the limited overhead clearance. The structure has been struck by over-height vehicles fourteen times in the past four years. On the last such occasion, one end of the trestle as well as the tracks above was shifted approximately one foot out of alignment.

Increasing the available clearance at the crossing would necessitate either raising both the tracks and the structure or lowering the surface of the roadway. The former would be unreasonably expensive due to the need to taper the added elevation back through sidings, switches, unloading facilities for the adjacent paper mill and the nearby WCL Bridge across the Wisconsin River. Lowering the roadway surface is not a practical alternative because of inherent drainage problems at the site of the crossing.

At the time of hearing, although substantial progress in the repair of the structure had been made by WCL, the roadway remained closed to motor vehicles. The City and WCL had, however, arrived at an agreement as to design changes to the structure and the warning systems to reduce or eliminate the frequency of collisions with the trestle and to minimize damage to the structure when such collisions may occur. That agreement calls for WCL to install steel I-beams outboard of the trestle on both sides at an elevation of 12 feet over the roadway surface to withstand the impact of a motor vehicle while preventing impact to the trestle. The I-beam is to be fitted with reflective tape to assist in warning approaching traffic of the low clearance. Further, WCL is to purchase and apply to the I-beams, and the City of Rhinelander is to thereafter power and maintain, a series of flashing LED warning lights which are to operate continuously. WCL has further agreed to provide to this Office the plans for both the I-beam installation and the flashing light warning system. This agreement is found to be fair and reasonable and will be incorporated in the order.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That this Office has jurisdiction of this matter by reason of Secs. 195.28 and 195.29, Stats.

Order

THE COMMISSIONER ORDERS:

1. That the plan proffered by the Parties represents a reasonable approach to prevent or reduce the frequency of collisions with the Davenport Street Trestle by over-height vehicles. That plan is hereby approved.
2. That WCL shall install steel I-beams fitted with reflective warning tape at an elevation of 12 feet over the Davenport Street road surface and outboard of the main structure.
3. That WCL shall install and the City of Rhinelander shall thereafter operate and maintain a set of flashing LED warning lights on the upper edge of the installed I-beam.

4. That jurisdiction is retained.

Dated at Madison, Wisconsin, this 10th day of July, 2006.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

9164F639